

Public Health Appeal Board

Annual Report 2010

**Government
of Alberta ■**

For further information

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Public Health Appeal Board Members

Sharon Cox - High Prairie Chair

Ms. Cox runs a mixed farming operation with her children and is a former registered nursing assistant. She is a past chairperson for the Keewatinok Lakes regional health authority (1994 – 2001) and enjoys volunteering for various community groups.

William (Bill) Steinburg - Spruce Grove Vice-chair

Mr. Steinburg is currently serving his fifth term as alderman for the city of Spruce Grove and has held position of mayor for one term. Bill is a health care consultant and holds a bachelor of Health Services Administration degree. He is semi retired as manager of Medical Imaging with a background in finance administration and capital projects.

Lillian Douglass – Edmonton

Ms. Douglass is a former associate professor and associate dean at the University of Alberta. She has served on a number of boards at the provincial, national, and international levels. Her varied professional pursuits have taken her to areas in Africa and Southeast Asia to assist with mounting undergraduate and graduate nursing education programs. Lillian is a recipient of the Alberta Centennial Medal.

Kenneth Hodgins – Fort Saskatchewan Alternate Vice-Chair

Mr. Hodgins' background is in the Men's Wear retail business for 35 years – 27 years as owner/operator. Ken has been active in many community organizations. Ken served 18 years on municipal council - 9 years as alderman and 9 years as mayor of Fort Saskatchewan. Ken recently retired as executive director of the Fort Saskatchewan Chamber of Commerce.

Background

The Public Health Appeal Board (the Board) was established February 03, 1999 under the amended *Public Health Act*. The Board replaced the former Public Health Advisory and Appeal Board established in 1985.

The Board is subject to general rules of administrative law and natural justice as they apply to quasi-judicial tribunals.

Donald R. Cranston, Q.C., of the law firm Bennett Jones LLP provides the Board with independent legal counsel.

Duties

The Board is a panel of not more than five members appointed by the Lieutenant Governor in Council. The mandate of the Board is to hear appeals from individuals who have been directly affected by a decision of a regional health authority (RHA). Those decisions are related primarily to orders issued pursuant to section 62 of the *Public Health Act*.

The Board may call upon technical experts and professionals to assist and provide them with specific knowledge in areas related to an appeal. At the completion of an appeal, the Board gives written notice of its decision.

It may:

- confirm, reverse or vary the decision of the RHA or
- refer the matter back to the RHA for further consideration.

2009 APPEAL APPLICATIONS – HEARING – DISPOSITIONS

Alberta Health Services 2009	Appeal Applications	Date of Appeal mm/dd/yyyy	Appeal Withdrawn	Decision	Comments
Zone 2 Calgary	21/2009	12/14/2009		Refer back	Referred back for consideration and redetermination

Alberta Health Services 2010	Appeal Applications	Date of Appeal mm/dd/yyyy	Appeal Withdrawn	Decision	Comments
Zone 1 South	01/2010	03/03/2010	Withdrawn		
	02/2010	03/03/2010	Withdrawn		
	03/2010	03/03/2010	Withdrawn		
	22/2010	09/15/2010			Hearing held. Final details to be provided in next year's Report
Zone 2 Calgary	06/2010	04/27/2010	Withdrawn		
	19/2010	06/04/2010	Withdrawn		
	25/2010	09/23/2010			Appeal hearing adjourned. Final details to be provided in next year's Report
	26/2010	09/23/2010			Appeal hearing adjourned. Final details to be provided in next year's Report
	27/2010	10/17/2010			Hearing held. Final details to be provided in next year's Report
Zone 3 Central	04/2010	03/22/2010		Upheld	Owner to complete repairs
	05/2010	04/15/2010		Upheld	Owner to complete repairs
	08/2010	04/27/2010		Upheld	Owner to complete repairs
	09/2010	04/29/2010		Upheld	Owner to complete repairs
	10/2010	04/29/2010		Upheld	Owner to complete repairs
	13/2010	04/29/2010		Upheld	Owner to complete repairs
	14/2010	05/03/2010		Upheld	Owner to complete repairs
	15/2010	05/05/2010		Upheld	Owner to complete repairs
	17/2010	05/24/2010		Varied	Use of old collapsible boxes allowed and written procedures not necessary
Zone 4 Edmonton	07/2010	04/27/2010	Withdrawn		
	11/2010	04/29/2010	Withdrawn		
	12/2010	04/30/2010		Upheld	Owner to complete repairs

Appeal Activities and Summaries

The following is a summary of all appeals or applications received and/or heard by the Board from December 14, 2009 to December 31, 2010. Orders were issued by the executive officer of the regional health authority named as per the following:

21/2009 – Alberta Health Services Zone 2 Calgary

Appeal of two orders under Section 62 of the *Public Health Act*, requiring the owner to immediately close the food establishments and to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

Hearing held January 5, 2010

The Board referred the orders back for further consideration and redetermination due to conflicting statements to the Board from both parties.

01/2010 – Alberta Health Services Zone 1 South

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to imminately close the premises, cease the supply and sale of any food from the premises and complete a Food Handling Permit Application Form to be returned to the office of Alberta Health Services Zone 1 South.

The appellant withdrew the appeal.

02/2010 – Alberta Health Services Zone 1 South

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to immediately close the premises, cease the supply and sale of any food from the premises and complete a Food Handling Permit Application Form to be returned to the office of Alberta Health Services Zone 1 South.

The appellant withdrew the appeal.

03/2010 – Alberta Health Services Zone 1 South

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to immediately close the premises, cease the supply and sale of any food from the premises and complete a Food Handling Permit Application Form to be returned to the office of Alberta Health Services Zone 1 South.

The appellant withdrew the appeal.

04/2010 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated on a given date, premises to be secured on a given date, and to remain closed until the owner corrects a number of conditions identified in the order to the satisfaction of an executive officer of Zone 3 Central.

Hearing held April 21, 2010

The Board upheld the order. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 3 Central.

05/2010 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, requiring a number of conditions such as serving certain foods to customers, using the municipal water supply for customers, to have only articles associated with the sanitary operation of the food establishment located within the premises, to have the Personal Services Facility closed, and to cease operation until all aspects of the business premises are corrected to the satisfaction of the executive officer of Alberta Health Services Zone 3 Central

Hearing held May 5, 2010

The Board upheld the order. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 3 Central.

06/2010 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to have the premises remain vacated until the conditions identified in the order are corrected to the satisfaction of an executive officer of Alberta Health Services Zone 2 Calgary.

The appellant withdrew the appeal.

Zone 4 Edmonton cont'd	16/2010	05/10/2010	Withdrawn		
	18/2010	05/28/2010		Upheld	Owner to complete repairs
	20/2010	07/22/2010	Withdrawn		
	21/2010	08/17/2010			Hearing adjourned. Final details to be provided in next year's Report
	24/2010	09/13/2010	Withdrawn		
	28/2010	10/04/2010	Withdrawn		
	29/2010	11/07/2010			Hearing scheduled for January 10, 2011
	30/2010	11/26/2010			Hearing scheduled for January 13, 2011
	32/2010	12/29/2010			Hearing to be scheduled
	33/2010	12/29/2010			Hearing to be scheduled
Zone 5 North	23/2010	08/17/2010	Withdrawn		
	31/2010				Hearing scheduled January 12, 2011

07/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owners and the condominium board to ensure the window sizes in the bedrooms of the condominium complex are large enough for emergency egress and that these rooms are not to be used for purposes of sleeping until corrected. The owner is to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

The appellant withdrew the appeal.

08/2010 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the premises immediately.

Hearing held May 27, 2010 concurrent with Appeals 09/2009, 10/2010, 13/2010 and 14/2010

The Board reversed the order. The conditions observed within the apartment were not deemed sufficient to warrant the eviction of tenants from the premises.

09/2010 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the premises immediately.

Hearing held May 27, 2010 concurrent with Appeals 08/2009, 10/2010, 13/2010 and 14/2010

The Board reversed the order. The conditions observed within the apartment were not deemed sufficient to warrant the eviction of tenants from the premises.

10/2010 – Alberta Health Services Zone 3 Central

Appeal of two orders under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation, requiring the tenants to vacate the premises immediately, and the owner to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 3 Central.

Hearing held May 27, 2010 concurrent with Appeals 08/2009, 09/2010, 13/2010 and 14/2010

The Board reversed the unfit for habitation order. The conditions observed within the premises did not warrant eviction of the tenants. The Board varied the nuisance order. The appellant took immediate action to remedy hot water and leaking water pipe issues. Also, conditions of the carpets met required legislated standards.

11/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owners and the condominium board to ensure the window sizes in the bedrooms of the condominium complex are large enough for emergency egress and that these rooms are not to be used for purposes of sleeping until corrected. The owner is to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

The appellant withdrew the appeal.

12/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of two orders under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation, requiring the tenants to vacate the premises by a certain date, and the owner to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

Hearing held June 2, 2010 in coordination with Appeal 18/2010

The Board upheld the order. The appellant was to correct the nuisance conditions identified in the order to the satisfaction of an executive officer of AHS Zone 4 Edmonton. The appellant had complied with the order to vacate.

13/2010 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the housing premises by a specified date.

Hearing held May 27, 2010 concurrent with Appeals 08/2009, 09/2010, 10/2010 and 14/2010

The Board reversed the order. The conditions observed within the apartment were not deemed sufficient to warrant the eviction of tenants from the premises.

14/2010 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the housing premises by a specified date.

Hearing held May 27, 2010 concurrent with Appeals 08/2009, 09/2010, 10/2010 and 13/2010

The Board reversed the order. The conditions observed within the apartment were not deemed sufficient to warrant the eviction of tenants from the premises.

15/2010 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to ensure bedrooms/rooms used for sleeping have the required conditions for at least one outside window to be opened from the inside and for it to provide unobstructed openings.

Hearing held June 3, 2010

The Board upheld the order. The owner of the housing premises was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 3 Central.

16/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to provide a smoke alarm to the suite on the main floor by a specified date.

The appellant withdrew the appeal.

17/2010 – Alberta Health Services Zone 3 Central

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions of the commercial food establishment identified in the order by specified dates.

Hearing held June 24, 2010

The Board varied the Order. The appellant is not required to obtain new collapsible boxes as the concern is with the inappropriate storage of the used boxes. It is not mandated for procedures to be written to verify proper transportation of meat, meat products and ingredients prior to delivery. All other items have been extended to be completed by September 30, 2010 to the satisfaction of an executive officer of Alberta Health Services Zone 3 Central.

18/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of two orders under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation, requiring the tenants to vacate the premises by a certain date, and the owner to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services Zone 4 Edmonton.

Hearing held June 2, 2010 in coordination with Appeal 12/2010

The Board upheld the order. The appellant was to correct the nuisance conditions identified in the order to the satisfaction of an executive officer of AHS Zone 4 Edmonton. The soundness of the foundation was not found to be a nuisance. The appellant had complied with the Order to Vacate.

19/2010 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated immediately and to be secured from any and all unauthorized entry.

The appellant withdrew the appeal.

20/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated immediately.

The appellant withdrew the appeal.

21/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to correct a number of conditions identified in the order by specified dates.

The appeal hearing was adjourned with the provisions for the Appellant to reschedule. Final details will be provided in next year's Annual Report.

22/2010 – Alberta Health Services Zone 1 South

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to repair a number of conditions to the satisfaction of an executive officer of Alberta Health Services Zone 1 South and that the premises remain closed for tenant accommodation purposes.

Hearing held October 22, 2010

Final details will be provided in next year's Annual Report due to the written decision not completed.

23/2010 – Alberta Health Services Zone 5 North

Appeal of a letter under Section 62 of the *Public Health Act*, informing the appellant that his application for a Food Handling Permit has been refused at this time.

The appellant withdrew the appeal.

24/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the housing premises by a specified date.

The appellant withdrew the appeal.

25/2010 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation, the premises to be secured from unauthorized entry, and requiring the tenants to vacate the premises immediately.

Hearing held November 3, 2010

The appeal hearing was adjourned with the consent of all parties at the hearing. The parties had leave to come back before the board on an agreeable date for a determination of the issues on appeal. Final details will be provided in next year's Annual Report.

26/2010 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation, the premises to be secured from unauthorized entry, and requiring the tenants to vacate the premises by a specified date.

Hearing held November 4, 2010

The appeal hearing was adjourned with the consent of all parties at the hearing. The parties had leave to come back before the board on an agreeable date for a determination of the issues on appeal. Final details will be provided in next year's Annual Report.

27/2010 – Alberta Health Services Zone 2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to correct a number of conditions identified in the order by specified dates.

Hearing held December 7, 2010

Final details will be provided in next year's Annual Report due to the written decision not completed.

28/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises closed for tenant accommodation purposes, and requiring the tenants to vacate the premises by a specified date.

The appellant withdrew the appeal.

29/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to cease and desist the distribution, transport, processing or sale of unpasteurized milk products unless they obtain valid and subsisting permits and authorization to do so by all relevant regulatory agencies. A Demand for Information Order was issued requiring the owner to provide information relevant to the subject matter of the inspection.

Hearing scheduled for 2011

Final details will be provided in next year's Annual Report.

30/2010 – Alberta Health Services Z4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to correct a number of conditions identified in the order by specified dates or remain closed and reopen after all repairs are completed and inspected by an executive officer.

Hearing scheduled for 2011

Final details will be provided in next year's Annual Report.

31/2010 – Alberta Health Services Zone 5 North

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to abandon and reclaim the water wells identified in the order by specified dates.

Hearing scheduled for 2011

Final details will be provided in next year's Annual Report.

32/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to correct a number of conditions identified in the order by a specified date.

Hearing to be scheduled for 2011

Final details will be provided in next year's Annual Report.

33/2010 – Alberta Health Services Zone 4 Edmonton

Appeal of two orders under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the housing premises by a specified date.

Hearing to be scheduled for 2011

Final details will be provided in next year's Annual Report.

Other Activities

Board members attended educational courses provided through The Foundation of Administrative Justice. These courses provide a valuable overview of essential practices and components of conducting Board hearings. Attending courses of this nature are essential to ensuring fairness and credibility in decision making.

Application to the Court of Queen's Bench of Alberta

On June 7, 2010 the appellant of Appeal 19/2009 filed a judicial review application in the Court of Queen's Bench of Alberta seeking review of the Board's decision in Appeal 19/2009.

The application was heard before Justice Ouellette of the Court of Queen's Bench of Alberta on October 20, 2010.

